

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:)	Mail Stop Appeal Brief - Patents
)	
Sharadha VIJAY)	Group Art Unit: 2155
)	
Application No.: 10/023,297)	Examiner: D. ENG
)	
Filed: December 17, 2001)	
)	
For: A METHOD FOR RECORDING)	
EVENTS IN AN IP NETWORK)	

U.S. Patent and Trademark Office
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REPLY BRIEF UNDER 37 CFR § 41.41

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Sir:

This Reply Brief is submitted in response to the Examiner's Answer, dated November 2,
2007.

I. STATUS OF CLAIMS

Claims 1-44 and 85 are pending in this application. Claims 45-84 have been canceled without prejudice or disclaimer. No claims have been allowed.

Claims 1-44 and 85 were finally rejected in the Office Action, dated July 18, 2006, and are the subject of the present appeal. These claims are reproduced in the Claim Appendix of the Amended Appeal Brief, filed August 1, 2007.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1-44 and 85 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jang et al. (U.S. Patent No. 6,980,526) in view of Ulrich (U.S. Patent No. 6,895,438).

VII. ARGUMENTS

In the "Grounds of Rejection" section (and reiterated in the "Response to Argument" section) of the Examiner's Answer (pp. 3-8), the Examiner relies on sections of the Jang et al. and Ulrich documents that have not previously been relied on in rejecting Appellant's claims. Appellant objects to the Examiner introducing these new sections of Jang et al. and Ulrich for the first time in the Examiner's Answer, particularly since the Examiner has relied on Jang et al. and Ulrich since the first Office Action and has had plenty of opportunities to introduce these new sections. Nevertheless, the following remarks address each of the new sections raised by the Examiner in the Examiner's Answer.

1. Claims 1, 26, and 85.

Independent claim 1 is directed to a method that includes creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section; generating at least one call event record in response to at least one event; and storing the at least one call event record in either the at least one SIP message section, or the at least one call event section. Jang et al. and Ulrich, whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, Jang et al. and Ulrich do not disclose or suggest creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section. The Examiner relies on col. 11, lines 6-8 and 12-19, of Jang et al. for allegedly disclosing "creating an XML call event file," on col. 5, lines 29-31, col. 7, lines 38-40, col. 8, line 45, col. 11, lines 6-8 and 12-19, and claim 14 of Jang et al. for allegedly disclosing "at least one SIP message section," and on col. 11, lines 12-19, of Jang et al. as allegedly disclosing "at least

one call event section (Examiner's Answer, p. 4). Appellant respectfully disagrees with the Examiner's interpretation of Jang et al.

At the outset, Appellant notes that while the Examiner specifically relies on Jang et al. for allegedly disclosing the above feature of claim 1, the Examiner also specifically admits that Jang et al. does not disclose creating an XML call event file (Examiner's Answer, p. 5). As indicated in Appellant's Appeal Brief, Jang et al. does not mention XML. Thus, Appellant agrees with the Examiner's admission that Jang et al. does not disclose creating an XML call event file, as recited in claim 1.

Nevertheless, at col. 11, lines 6-8 and 12-19, Jang et al. discloses:

Switch 12 may monitor or record call information related to videoconferencing such as quality, duration of call, etc.

The method further includes logging the videoconferencing call information in a call record at 522. The call record may serve to provide billing information to SP 14 and to obtain data for quality assurance purposes. The call record may include length of call, parties on the call, bandwidth used by the call, measured quality of the call (as determined for example by jitter, latency, and packet loss), among other parameters.

This section of Jang et al. discloses that switch 12 may monitor or record call information related to videoconferencing and that the videoconferencing call information can be logged in a call record. Jang et al. discloses that the call record includes length of call, parties on the call, bandwidth used by the call, measured quality of the call, among other parameters (col. 11, lines 15-19). Neither this section of Jang et al. nor any other section of Jang et al. discloses or suggests that the call record includes a server information section, at least one SIP message section, and at least one call event section, as would be required by claim 1 based on the Examiner's interpretation of Jang et al. The Examiner does not explain how a length of a call,

parties on the call, bandwidth used by the call, or measured quality of the call can reasonably be construed as a server information section, at least one SIP message section, and at least one call event section, as defined in Appellant's specification and as recited in claim 1. Thus, the Examiner has not established a *prima facie* case of obviousness with respect to claim 1.

At col. 5, lines 29-31, Jang et al. discloses:

Enterprise video gateway 36 typically includes an emulation module 40 which emulates H.323/SIP call control and firewall functionality and an encryption module 44.

This section of Jang et al. discloses that an emulation module 40 emulates H.323/SIP call control and firewall functionality. This section of Jang et al. does not disclose or suggest that Jang et al.'s call record (which the Examiner appears to allege corresponds to the recited call event file) includes at least one SIP message section, as would be required by claim 1 based on the Examiner's interpretation of Jang et al. Neither this section of Jang et al. nor any other section of Jang et al. discloses or suggests creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section, as recited in claim 1.

At col. 7, lines 38-40, Jang et al. discloses:

For calls placed with the SIP protocol, the IP address of the enterprise gateway 36 (which also acts as a proxy to the videoconferencing services switch SIP proxy 416) is provided.

This section of Jang et al. discloses the placement of a SIP call. This section of Jang et al. does not disclose or suggest that Jang et al.'s call record (which the Examiner appears to allege corresponds to the recited call event file) includes at least one SIP message section, as would be required by claim 1 based on the Examiner's interpretation of Jang et al. Neither this section of Jang et al. nor any other section of Jang et al. discloses or suggests creating an XML call event

file including a server information section, at least one SIP message section, and at least one call event section, as recited in claim 1. In fact, as mentioned above, Jang et al. does not even relate to XML at all.

At col. 8, lines 44-46, Jang et al. discloses

Calls in the H.323 protocol are routed to virtual H.323 gatekeeper 414, while calls in the SIP protocol are routed to SIP Proxy 416.

This section of Jang et al. discloses that SIP calls are routed to SIP proxy 416. This section of Jang et al. does not disclose or suggest that Jang et al.'s call record (which the Examiner appears to allege corresponds to the recited call event file) includes at least one SIP message section, as would be required by claim 1 based on the Examiner's interpretation of Jang et al. Neither this section of Jang et al. nor any other section of Jang et al. discloses or suggests creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section, as recited in claim 1.

In claim 14, Jang et al. discloses

The method of claim 5, wherein the call is connected according to H.323 or SIP protocols.

This claim of Jang et al. discloses that the call is connected according to the H.323 protocol or the SIP protocol. This claim of Jang et al. does not disclose or suggest that Jang et al.'s call record (which the Examiner appears to allege corresponds to the recited call event file) includes at least one SIP message section, as would be required by claim 1 based on the Examiner's interpretation of Jang et al. Neither this section of Jang et al. nor any other section of Jang et al. discloses or suggests creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section, as recited in claim 1.

Further with respect to the above feature of claim 1, the Examiner alleges:

since Jang teaches recording SIP call events in a section, the section in Jang that records the SIP call event therefore is a SIP messaging section ... [and] Jang teaches recording different categories, such as length of call, parties on the call and bandwidth etc., of a call event in different sections

(Examiner's Answer, p. 4). Appellant respectfully disagrees.

As set forth above, Jang et al. discloses that the call record includes length of call, parties on the call, bandwidth used by the call, and measured quality of the call, among other parameters (col. 11, lines 15-19). Appellant respectfully submits that it is unreasonable to construe this disclosure of Jang et al. as disclosing that Jang et al.'s call record must include at least one SIP message section and at least one call event section, as would be required by claim 1 based on the Examiner's apparent interpretation of Jang et al. Moreover, the Examiner appears to allege that the above parameters correspond to information stored in the recited at least one SIP message section while also corresponding to information stored in the recited at least one call event section. Appellant submits that this allegation by the Examiner is unreasonable.

Further with respect to the above feature of claim 1, the Examiner admits that Jang et al. does not disclose creating an XML call event file and relies on col. 3, line 18, and col. 8, line 13, col. 15, lines 39-67, of Ulrich for allegedly disclosing creating an XML call event file (Examiner's Answer, p. 5). Appellant respectfully disagrees with the Examiner's interpretation of Ulrich.

At col. 3, lines 16-18, Ulrich discloses that, with digital phone identification, it is possible to have records of incoming calls. The Examiner does not explain how this section of Ulrich in any way relates to creating an XML call event file, as recited in claim 1. Instead, this section

Ulrich merely discloses that caller identifiers may be recorded.

At col. 8, lines 12-14, Ulrich discloses a communication record 35 in a log file 31. Ulrich discloses that communication record 35 includes a date 31A and a time 31B of the communication record, an identity of the recipient of the communication record 31C, the manner of communication 31D (whether direct, via carbon copy--cc, blind carbon copy--bcc, or forwarded--fw), a sender of the communication record 31E (in a similar format as recipient 31C), subject key words 31F, a message type 31G and an attachment type 31H of the communication record, a message size 31I and an attachment size 31J of the communication record, a message word count 31K and an attachment word count 31L of the communication record, and the normalized duration 31M of each communication record, showing the time needed for a typical recipient to open, understand, and dispose of the communication record via a single reading, listening, or viewing (col. 7, lines 17-44). These sections of Ulrich do not disclose or suggest creating an XML call event file, as recited in claim 1. In fact, this section of Ulrich does not even mention XML.

At col. 15, lines 39-67, Ulrich discloses:

Within a few years as converged Internet-protocol networks replace legacy systems, all forms of telecommunication--whether voice, data, text, images, video, and mixed media--will be measurable in terms of bytes (the stocks of information) and bandwidth (the flows of same). Ultimately, with the advent of personal-area networks (which are the wired-human-body equivalent of a corporate local-area network), time spent in face-to-face communication may also be automatically quantifiable. Similarly, organizations are increasingly using and accepting metadata like eXtensible Markup Language (XML) to facilitate business transactions and communications. Standards are still emerging under various forums like the Internet Engineering Task Force for such metadata as XML for messaging, XML for wireless applications, and XML for synchronizing data on disparate platforms. Once adopted, XML for messaging will facilitate tracking of various forms of telecommunication without the need for keyword scanning or

topic gisting, which can require a lot of computing overhead. The proxy server of the present invention will be able to directly process communication records' XML metadata tags that identify the message and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media. Encrypted and encoded files would contain this XML metadata as an external wrapper, thus obviating the need for the proxy server to open and review each message as it passes through the system.

This section of Ulrich discloses a proxy server that is able to directly process communication records' XML metadata tags that identify the message and attachment types, key words, word count, duration, format, manner of encoding, or other attributes of interest without having to cull this information from different sources and media. This section of Ulrich does not disclose or suggest creating an XML call event file, as recited in claim 1. One skilled in the art at the time of Appellant's invention would not have reasonably construed Ulrich's XML metadata tags as an XML call event file that includes a server information section, at least one SIP message section, and at least one call event section, as recited in claim 1.

Appellant notes that the Examiner continues to ignore the server information section recited in Appellant's claim 1. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 1.

In the Response to Argument section of the Examiner's Answer, the Examiner alleges:

Appellants rely solely on the feature of "creating an XML call event file including a server information section, at least one SIP message section, and at least one call event section" for patentability (second last paragraph on page 9 of the brief)

(Examiner's Answer, p. 8). Appellant strenuously disagrees with the Examiner's allegation and direct the Honorable Board's attention to Appellant's arguments presented on pages 13-15 of Appellant's Appeal Brief, filed August 1, 2007.

The Examiner further alleges:

In the arguments directed to claim 1, Appellants appear do not disagree with the Examiner on the teaching of Jang and Ulrich

(Examiner's Answer, p. 10). Appellant submits that the Examiner's allegation lacks merit. For example, as set forth above, Ulrich does not disclose or suggest creating an XML call event file, as recited in claim 1. Instead, Ulrich merely discloses the use of XML metadata that may be used as an external wrapper for encrypted and encoded files (see, for example, col. 15, lines 63-67). Metadata is data that defines a data set (or record) and is not the data set (or record) itself. So, Ulrich's disclosure of metadata being in XML format does not mean that the record with which the metadata is associated is in XML format. Ulrich does not disclose or suggest that the communication record 35, which the Examiner appears to allege corresponds to the recited call event file, is in XML format. Moreover, Ulrich does not disclose or suggest that Ulrich's XML metadata is an XML call event file. Further, the Examiner does not explain why one skilled in the art at the time of Appellant's invention would reasonably construe Ulrich's XML metadata as an XML call event file. Accordingly, a *prima facie* case of obviousness has not been established with respect to claim 1.

For at least the foregoing reasons and for those reasons presented in the Amended Appeal Brief, filed August 1, 2007, Appellant submits that the rejection of claim 1 under 35 U.S.C. § 103(a) based on Jang et al. and Ulrich is improper. Accordingly, Appellant requests that the rejection of claim 1 be reversed.

With respect to claims 26 and 85, the Examiner presents similar allegations to those set forth above with respect to claim 1. Appellant submits that the rejection of claims 26 and 85

under 35 U.S.C. § 103(a) based on Jang et al. and Ulrich is improper for at least reasons similar to reasons given above with respect to claim 1. For example, neither Jang et al. nor Ulrich, whether taken alone or in any reasonable combination, discloses or suggests creating an XML processor module coupled to a call event record module, where the XML processor module is configured to create an XML call event file, where the XML call event file includes at least one call event record, as recited in claim 26, or creating an XML call event file including at least one call event record, as recited in claim 85. As indicated above, Jang et al. does not mention XML. Thus, Jang et al. cannot disclose the above features of claims 26 and 85. Moreover, Ulrich merely discloses the use of XML metadata that may be used as an external wrapper for encrypted and encoded files (see, for example, col. 15, lines 63-67). Metadata is data that defines a data set (or record) and is not the data set (or record) itself. Ulrich's disclosure of metadata being in XML format does not mean that the record with which the metadata is associated is in XML format. Ulrich does not disclose or suggest that Ulrich's XML metadata is an XML call event file. Moreover, Ulrich does not disclose or suggest that Ulrich's XML metadata is an XML call event file. Further, the Examiner does not explain why one skilled in the art at the time of Appellant's invention would reasonably construe Ulrich's XML metadata as an XML call event file. Accordingly, Appellant requests that the rejection of claims 26 and 85 be reversed.

2. Claims 10-25 and 29-44.

With respect to these claims, the Examiner alleges:

Claims 10-25 and 29-44 recite the data items stored in the created file are of different types. Jang teaches the same in column 11/lines 12-19 except that the data types are not identical as claimed. It would have been obvious to a person of ordinary skill in the art to store all different types of data items so that the record is complete. It would have been further obvious to a person of ordinary skill in

the art to store different types of data items in different types of sections or fields of the file and to label them appropriately so that the records are clear, accurate and organized

(Examiner's Answer, p. 7). Appellant respectfully disagrees.

Col. 11, lines 12-19, of Jang et al., is reproduced above. This section of Jang et al. discloses that the call record includes length of call, parties on the call, bandwidth used by the call, measured quality of the call, among other parameters. This section of Jang et al. does not address the features recited in claims 10-25 and 29-44.

Moreover, Appellant submits that the Examiner's allegation that it would have been obvious to store all different types of data items to make the record complete is merely a conclusory statement and is unsupported by any evidence on the record. In this regard, Appellant relies upon KSR International Co. v. Teleflex Inc., 550 U.S. ____ (April 30, 2007) (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)), where it was held that rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Appellant submits that the Examiner has not provided an articulated reasoning necessary to support the legal conclusion of obviousness. For example, the Examiner does not explain why incorporating the features of claims 10-25 and 29-44 would make a record clear, accurate, or organized. Accordingly, a *prima facie* case of obviousness has not been established with respect to this claim.

For at least the foregoing reasons and for those reasons presented in the Amended Appeal Brief filed, August 1, 2007, Appellant submits that the rejection of claims 10-25 and 29-44 under

35 U.S.C. § 103(a) based on Jang et al. and Ulrich is improper. Accordingly, Appellant requests that the rejection of claims 10-25 and 29-44 be reversed.

CONCLUSION

In view of the foregoing arguments and the arguments presented in the Amended Appeal Brief, filed August 1, 2007, Appellant respectfully solicits the Honorable Board to reverse the outstanding rejection of claims 1-44 and 85 under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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